

REMARKS

This responds to the Office Action issued on January 21, 2010. Reconsideration is respectfully requested in view of the following remarks..

Independent claims 1, 48 and 53 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Publication No. 2004/0192282 (Vasudevan) in view of U.S. Patent No. 5,008,814 (Mathur), in view of U.S. Publication No. 2004/0243993 (Okonnen) and further in view of U.S. Publication No. 2003/0046676 (Cheng). These rejections are respectfully traversed.

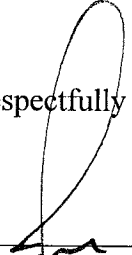
The current Office Action continues to cite to paragraphs 55 and 57-59 of Okonnen as teaching the claim 1 limitation of “upon determining that the update resource is stored in the mobile device memory during an initialization of the mobile device, prompting a mobile device user to select between the baseline mobile device configuration and the updated mobile device configuration,” along with the similar limitations in claims 48 and 53. This is incorrect.

The Okonnen reference describes a network for updating software or firmware in a mobile device in which the mobile handset (107) may detect an available update to the firmware/software when the handset is powered up and display a list of available “update agents” from which the user may select to perform the update. (Okonnen, ¶ 57.) When the update is thereafter downloaded and installed in the mobile handset (107), the existing update agent is removed or replaced. (Okonnen, ¶ 0070.) However, Okonnen does not contemplate allowing the user to select between a baseline mobile configuration and an updated mobile device configuration, as claimed. Instead, Okonnen teaches that the mobile handset should include backup update agents that are employed “in a situation where a primary update agent may be faulty, inappropriate, outdated, etc.” That is, Okonnen provides a completely different approach to the problem.

The newly cited Cheng reference does not cure this defect. Much like the Fedorov reference cited in the previous Office Action, the Cheng reference merely teaches the ability to “undo” the installation of a program and recover an old version of the program from device memory. Cheng clearly does not teach or suggest the claimed step of “upon determining that the update resource is stored in the mobile device memory during an initialization of the mobile device, prompting a mobile device user to select between the baseline mobile device configuration and the updated mobile device configuration.” Further, the skilled practitioner would not combine the teachings of Cheng with Okonnen to derive this claimed step because Okonnen teaches the completely different approach of replacing a “faulty” or “inappropriate” program by employing a “backup update agent” without requiring any user input. To combine the Cheng and Okonnen references in the way suggested by the Examiner would require the skilled practitioner to completely ignore this teaching of the Okonnen reference. The combination is therefore improper and the rejections should be withdrawn. See, MPEP 2141.02 VI. (“A prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention.”)

Independent claims 1, 48 and 53, along with their respective dependent claims, are thus patentable over the cited references and in condition for allowance.

Respectfully submitted,



Joseph M. Sauer (Reg. No. 47,919)
JONES DAY
901 Lakeside Ave.
Cleveland, OH 44114
(216)586-3939